

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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In the Matter of)

Advanced Television Systems)

and Their Impact Upon the)

Existing Television Broadcast Service)

MM Docket No. 87-268

To: The Commission

November 22, 1996

**COMMENTS OF CURT R. DUNNAM ON THE
SIXTH NOTICE OF PROPOSED RULEMAKING**

These comments on the Commission's Sixth Further Notice of Proposed Rule Making (FCC 96-207, released August 14, 1996: "Sixth NPRM" or "Notice"), are submitted by Curt R. Dunnam, d.b.a. Linear Research Associates ("LINEAR").

A. INTRODUCTION:

LINEAR is presently an applicant for NTSC facilities on UHF channel 52¹, allocated to Ithaca, New York. As owner of LINEAR, and as a current applicant before the

¹ Application File Number: BPCT950320KM

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Commission, Mr. Dunnam will be directly affected by the Commission's eventual adoption or rejection of issues considered in this proceeding. Therefore, LINEAR offers the following pertinent comments for due consideration by the Commission:

I FULL ACCOMMODATION:

LINEAR concurs in part and disagrees in part with the Commission's allotment objective as expressed in the instant proceeding (See Sixth Further Notice, at para. 10). While LINEAR agrees that the Commission's primary objective in this matter should be "...to develop an allotment approach that will accommodate all eligible existing broadcasters...", LINEAR emphatically disagrees that the public interest would be well served by the restrictive definition of "existing broadcasters" as proposed². In particular, LINEAR objects to clauses b) and c), which limit permittees eligible for a DTV assignment to such parties who have been previously authorized [NTSC construction permits] as of October 24, 1991, or to parties with applications on file for a construction permit as of that date.

As the Commission is aware, over 300 applications for NTSC construction permits are presently on file and the Commission anticipates that, if processed, these applications could result in more than 100 new NTSC stations³. However, since a majority of the applications

² ibid., "a) all full-service television broadcast station licensees; b) permittees authorized as of October 24, 1991; and c) all parties with applications for a construction permit on file as of October 24, 1991, who are ultimately awarded full-service broadcast station licenses."

³ Ibid.

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were filed between October 24, 1991 and September 1996⁴, these "interim" stations, in the letter of the Commission's current proposal, do not enjoy the assurance of a DTV channel assignment.

In LINEAR's view, the cited clauses unfairly restrict the ability of so-called interim NTSC facility applicants to finance and construct their proposed facilities. Clearly, there is little economic incentive to place a television station in operation without reasonable expectation of a migration path to DTV during the NTSC phase-out period. As a consequence, it is reasonable to assume under the proposed scenario that many of the applied-for interim stations would not be built. Since many of these stations are designated for location in underserved areas, the potential impact on diversity of over-the-air signals, and, therefore, the public interest, will undoubtedly prove significant.

LINEAR presently has on file an application for construction of a first television in Ithaca, New York. Because Ithaca is effectively terrain-shielded from neighboring cities⁵, implementation of a new service in the area is especially meaningful. Beyond question, the currently-proposed inequitable assignment of DTV channels will critically affect LINEAR's ability to persevere, even in the event of a merger with viable competing applicant(s). Similar conditions, it is presumed, apply in at least a fraction of the other interim applicant cases. Therefore, LINEAR respectfully submits that the Commission adopt Congress'

⁴ Op. cit., at para. 60.

⁵ Petition for Special Relief, City of Ithaca, New York, Sept. 15, 1987, on FCC file.

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suggestion that the FCC define initial eligibility for DTV licenses as current NTSC licensees and those parties who, at the time of DTV issuance, "...hold a permit to construct such a station".

II. DTV TABLE OF ASSIGNMENTS:

LINEAR, as an applicant for an NTSC channel allocated to Ithaca, New York, requests that the Commission review its existing proposed Table of Allotments⁶ for consideration of an equivalent-coverage ("service replication") DTV channel allocation to Ithaca. Beyond the Full Accommodation argument, above, it should be noted that the Ithaca allocation was not lying fallow at the time of the October 24, 1991 DTV cutoff. At that point in time, a CP for the Ithaca facility existed in the hands of Ithaca TV Associates [ITVA], a group with which the principal of LINEAR had previously vied for recognition before the Mass Media Bureau. On a technicality, the CP was awarded in 1986 to ITVA, which in 1992 voluntarily allowed the CP to expire.

LINEAR, had the Commission dismissed ITVA and acted to grant it the Ithaca CP, would have proceeded with construction of its 1984-proposed facility in a timely fashion. Consequently, LINEAR would have been eligible for a DTV assignment even under the currently-proposed criteria. LINEAR therefore respectfully proposes that the Commission

⁶ See Sixth Further Notice, Appendix B.

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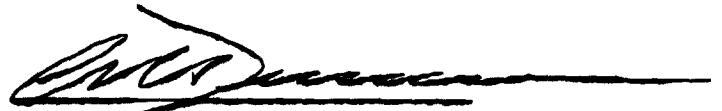
review the proposed Table of Allocations and move to include a matching DTV allocation
for Ithaca, New York.

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Respectfully submitted,

LINEAR RESEARCH ASSOCIATES

A handwritten signature in black ink, appearing to read "C. Dunnam", with a long horizontal line extending to the right.

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